

## TITLE 28 – TRANSPORTATION

### CHAPTER 3 – TRAFFIC AND VEHICLE REGULATION

#### ARTICLE 20 – OFF-HIGHWAY VEHICLES

##### **28-1176. Off-highway vehicle recreation fund; annual reports; definition**

A. An off-highway vehicle recreation fund is established. The fund consists of:

1. Monies appropriated by the legislature.
2. Monies deposited pursuant to sections 28-1177 and 28-5927.
3. Federal grants and private gifts.

B. Monies in the off-highway vehicle recreation fund are appropriated to the Arizona state parks board solely for the purposes provided in this article. Interest earned on monies in the fund shall be credited to the fund. Monies in the off-highway vehicle recreation fund are exempt from the provisions of section 35-190 relating to lapsing of appropriations.

C. The Arizona game and fish department shall spend thirty-five per cent of the monies in the off-highway vehicle recreation fund for informational and educational programs related to safety, the environment and responsible use with respect to off-highway vehicle recreation and law enforcement activities relating to this article and for off-highway vehicle law enforcement pursuant to title 17, chapter 4, article 3, including seven full-time employees to enforce this article and title 17, chapter 4, article 3.

D. The state land department shall spend five per cent of the monies in the off-highway vehicle recreational fund to allow occupants of off-highway vehicles with user indicia to cross state trust land on existing roads, trails and designated routes. The state land department shall use these monies for costs associated with off-highway vehicle use of lands within its jurisdiction, to mitigate damage to the land, for necessary environmental, historical and cultural clearance or compliance activities and to fund enforcement of off-highway vehicle laws.

E. The Arizona state parks board shall spend sixty per cent of the monies in the off-highway vehicle recreation fund for the following purposes:

1. No more than twelve per cent to fund staff support to plan and administer the off-highway vehicle recreation fund.
2. To establish an off-highway vehicle program based on the priorities established in the off-highway vehicle recreational plan.
3. To designate, construct, maintain, renovate, repair or connect off-highway vehicle routes and trails and to designate, manage and acquire land for access roads, off-highway vehicle recreation facilities and off-highway vehicle use areas. After expenditures pursuant to paragraph 1 of this subsection, the Arizona state parks board shall not spend more than thirty-five per cent of the remaining monies received pursuant to this subsection for construction of new off-highway vehicle trails.
4. For enforcement of off-highway vehicle laws.

5. For off-highway vehicle related informational and environmental education programs, information, signage, maps and responsible use programs.

6. For the mitigation of damages to land, revegetation and the prevention and restoration of damages to natural and cultural resources, including the closure of existing access roads, off-highway vehicle use areas and off-highway vehicle routes and trails.

7. For necessary environmental, historical and cultural clearance or compliance activities.

F. The allocation of the monies in subsection E, paragraphs 3 through 7 of this section and the percentages allocated to each of the purposes prescribed in subsection E, paragraphs 3 through 7 of this section shall be based on an off-highway vehicle recreational plan.

G. Monies in the off-highway vehicle recreation fund shall not be used to construct new off-highway vehicle trails or routes on environmentally or culturally sensitive land unless the appropriate land management agency determines that certain new trail construction would benefit or protect cultural or sensitive sites. For the purposes of this subsection, "environmentally or culturally sensitive land" means areas of lands that are either:

1. Administratively or legislatively designated by the federal government as any of the following:

(a) A national monument.

(b) An area of critical environmental concern.

(c) A conservation area.

(d) An inventoried roadless area.

2. Determined by the applicable land management agency to contain significant natural or cultural resources or values.

H. The Arizona state parks board shall examine applications for eligible projects and determine the amount of funding, if any, for each project. In determining the amount of monies for eligible projects, the Arizona state parks board shall give preference to applications for projects with mitigation efforts and for projects that encompass a large number of purposes described in subsection E, paragraphs 3 through 7 of this section.

I. Beginning September 1, 2011, and on or before September 1 of each subsequent year, each agency that receives monies from the off-highway vehicle recreation fund shall submit an off-highway vehicle report to the president of the senate, the speaker of the house of representatives, the chairperson of the senate natural resources and rural affairs committee, or its successor committee, and the chairperson of the house of representatives natural resources and public safety committee, or its successor committee. The report shall be made available to the public. The report shall include information on all of the following if applicable:

1. The amount of monies spent or encumbered in the fund during the preceding fiscal year for the purposes of off-highway vehicle law enforcement activities.

2. The amount of monies spent from the off-highway vehicle recreation fund during the preceding fiscal year for employee services.

3. The number of full-time employees employed in the preceding fiscal year in connection with off-highway vehicle law enforcement activities.

4. The amount of monies spent from the off-highway vehicle recreation fund during the preceding fiscal year for information and education.

5. The number and specific location of verbal warnings, written warnings and citations given or issued during the preceding fiscal year.

6. A specific and detailed accounting for all monies spent in accordance with this section for construction of new off-highway vehicle trails, mitigation of damages to lands, revegetation, the prevention and restoration of damages to natural and cultural resources, signage, maps and necessary environmental, historical and cultural clearance or compliance activities.

J. For the purposes of this section, "off-highway vehicle recreational plan" means a plan that is maintained by the Arizona state parks board pursuant to section 41-511.04.

28-1177. Off-highway vehicle user fee; indicia; registration; state trust land recreational permit; exception

A. A person shall not operate an all-terrain vehicle or an off-highway vehicle in this state without an off-highway vehicle user indicia issued by the department if the all-terrain vehicle or off-highway vehicle meets both of the following criteria:

1. Is designed by the manufacturer primarily for travel over unimproved terrain.

2. Has an unladen weight of eighteen hundred pounds or less.

B. A person shall apply to the department of transportation for the off-highway vehicle user indicia by submitting an application prescribed by the department of transportation and a user fee for the indicia in an amount to be determined by the director of the department of transportation in cooperation with the director of the Arizona game and fish department and the Arizona state parks board. The user indicia is valid for one year from the date of issuance and may be renewed. The department shall prescribe by rule the design and placement of the indicia.

C. When a person pays for an off-highway vehicle user indicia pursuant to this section, the person may request a motor vehicle registration if the vehicle meets all equipment requirements to be operated on a highway pursuant to article 16 of this chapter. If a person submits a signed affidavit to the department affirming that the vehicle meets all of the equipment requirements for highway use and that the vehicle will be operated primarily off of highways, the department shall register the vehicle for highway use and the vehicle owner is not required to pay the registration fee prescribed in section 28-2003. This subsection does not apply to vehicles that as produced by the manufacturer meet the equipment requirements to be operated on a highway pursuant to article 16 of this chapter.

D. The director shall deposit, pursuant to sections 35-146 and 35-147, seventy per cent of the user fees collected pursuant to this section in the off-highway vehicle recreation fund established by section 28-1176 and thirty per cent of the user fees collected pursuant to this section in the Arizona highway user revenue fund.

E. An occupant of an off-highway vehicle with a user indicia issued pursuant to this section who crosses state trust lands must comply with all of the rules and requirements under a state trust land recreational permit. All occupants of an off-highway vehicle with a user indicia shall obtain a state

trust land recreational permit from the state land department for all other authorized recreational activities on state trust land.

F. This section does not apply to off-highway vehicles, all-terrain vehicles or off-road recreational motor vehicles that are used off-highway exclusively for agricultural, ranching, construction, mining or building trade purposes.

Title 28., Chapter 16. Taxes

Article 5. Tax Administration

§ 28-5927. Transfer; off-highway vehicle recreation fund

Fifty-five one hundredths of one per cent of the total taxes on motor vehicle fuel shall be transferred from the monies collected pursuant to Section 28-5606 to the Off-Highway Vehicle Recreation Fund established by Section 28-1176 on a monthly basis.